

REMARKS

This is in response to the third Office Action, dated August 14, 2002, where the Examiner has rejected claims 1 and 4-53. After the present response, claims 1 and 4-53 are pending in the present application. Reconsideration and allowance of pending claims 1 and 4-53 in view of the following remarks are respectfully requested.

A. Rejection of Claims 1 and 4-53 under 35 U.S.C. § 102(e)

The Examiner has rejected claims 1 and 4-53 under 35 U.S.C. § 102(e), as being anticipated by Shima (USPN 6,333,789). Applicants respectfully disagree.

Applicants hereby swear behind the November 14, 1997 priority date of the Shima reference (USPN 6,333,789) under 37 C.F.R. § 1.131. Under 37 C.F.R. § 1.131, the inventors of the claimed invention may submit an appropriate declaration to overcome a reference. The showing of facts shall be such as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the effective date of the reference to a subsequent reduction to practice or to the filing of the application. See 37 C.F.R. § 1.131. Applicants respectfully submit that all pending claims 1 and 4-53 are allowable over the Wahl reference based on the following remarks.

Pursuant to 37 C.F.R. § 1.131, attached are declarations from inventors Joel Peshkin and Paul Wren, including a copy of an Innovation Disclosure, having Docket No. 97RSS327, which was submitted by the inventors to the Rockwell International Innovation Disclosure Database on July 8, 1997. Applicants have also attached a copy of the Patent Application Preparation letter, dated January 13, 1998, from Rockwell Intellectual Property Law Department to the law firm of

Snell & Wilmer requesting that the present patent application be drafted, which application was filed on March 8, 1999.

1. Rockwell Innovation Disclosure: Docket No. 97RSS327

The Examiner will note that the Innovation Disclosure, attached hereto, clearly shows that the Innovation Disclosure was submitted by the inventors to the Rockwell International Innovation Disclosure Database, as docket no. 97RSS327, on July 8, 1997, which predates the priority date of the Shima reference, i.e. November 14, 1997. Applicants respectfully submit that the Innovation Disclosure, entitled "Separating Commands and Data Using Logical Channels" evidences that the inventors were in possession of the presently claimed subject matter on July 8, 1997. For instance, the Innovation Disclosure, under the heading "Solution", states:

This new solution turns one physical channel into two logical channels. It does this by setting aside a group of hardware registers which pass messages about the data, one parameters of the messages being the channel number. By reserving one channel number for commands, and another for data, the information's detonation can be indicated. This avoids the need for command and data mode and the procedures and overhead switching modes requires. It also means that a command can be sent followed immediately by data, and the data will not upset the command.

2. Patent Application Preparation Letter

The Patent Application Preparation letter by Philip K. Yu of Rockwell International, dated January 13, 1998, to Mike Kelly of Snell & Wilmer evidences that the above-referenced Innovation Disclosure was submitted to the law firm of Snell & Wilmer for the purpose of drafting the present application. As shown on page 1 of the Patent Application Preparation letter, Snell & Wilmer was requested to draft a patent application based on Docket No. 97RSS327, entitled "Separating Commands and Data Using Logical Channels" by inventors Peshkin and Wren. As evidenced by the last page, the Patent Application Preparation letter included a copy

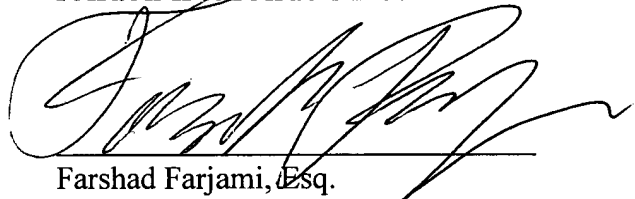
of the Innovation Disclosure Docket No. 97RSS327 as an attachment. Furthermore, the present application was drafted and filed on March 8, 1999, by the law firm of Snell & Wilmer on behalf of applicants.

Accordingly, applicants respectfully request that the rejection of claims 1 and 4-53 under 35 U.S.C. § 102(e) be withdrawn.

B. Conclusion

For all the foregoing reasons, an early allowance and issuance of claims 1 and 4-53 pending in the present application are respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "First Class Mail Post Office to addressee" Service under 37 C.F.R. Sec. 1.10 addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on 10/30/02.

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